

In the Matter of)
) WC Docket No. 13-39
Rural Call Completion)

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the Commission to follow the Bureau’s recommendation and “eliminate the existing rules, which impose substantial compliance burdens without providing relevant information to assist with the Commission’s analysis of potential rural call completion problems.”³ USTelecom similarly asked the Commission to “lessen the burden on companies by removing the onerous recordkeeping, retention and reporting requirements.”⁴ ITTA urged the Commission to eliminate the data rules, noting “While rural call completion problems have been abating, it is not due to the recording, retention, and reporting requirements” and that “the burdens of the requirements inherently outweigh the benefits.”⁵ NCTA calls on the Commission to “eliminate these unhelpful recording and reporting requirements.”⁶ Similarly, AT&T, the California Public Utilities Commission, CenturyLink, Comcast, Sprint, and the Voice on the Net Coalition all support the Commission’s proposal to eliminate the recording, retention, and reporting requirements.⁷ Even NASUCA, while taking no position on the proposed elimination of the rules, agrees “poor quality data will not produce desired results.”⁸

Only the joint comments of NTCA and WTA support maintaining these rules,⁹ despite the Commission’s findings that they have been ineffective and unhelpful. These joint commenters support retaining the rules at least until a replacement is found. But retaining

³ CTIA Comments, at 5.

⁴ United States Telecom Association (“USTelecom”) Comments, at 7.

⁵ ITTA Comments, at 2-3.

⁶ NCTA Comments, at 2.

⁷ See AT&T Comments, at 2-5; California Public Utilities Commission Comments, at 6-7; CenturyLink Comments, at 6; Comcast Comments, at 3-6; Sprint Comments, at 3-7; Voice on the Net Coalition Comments, at 1.

⁸ NASUCA Comments, at 2.

⁹ See NTCA-The Rural Broadband Association, WTA-Advocates for Rural Broadband (“NTCA/WTA”) Comments.

“flawed and burdensome”¹⁰ rules that have been “ineffective at addressing alleged rural completion problems”¹¹ is poor policy; “reporting requirements simply for the sake of reporting are burdensome and unnecessary.”¹² And the joint commenters’ assertion that the rules have been effective flies in the face of the Commission’s conclusions and all other comments addressing the issue. The joint commenters also posit that the data rules are the only explanation for improvements in rural call completion performance. But as rural LEC members of USTelecom report, they have resolved call completion issues “through their own monitoring and reaching out to the ILECs in their state.”¹³ These rural carriers attribute improved performance not to the data rules but to “working with the ILECs [who] owned the issue and took appropriate steps to resolve the problem.”¹⁴

When it adopts its proposal and eliminates the data rules, the Commission should not attempt to modify them or replace them with costly, burdensome new data rules that likely will be ineffective and counterproductive. The Commission should, as NCTA commented, avoid “imposing costly broad-based requirements to address discrete and individual call termination issues.”¹⁵ The existing ineffective rules were costly to design and implement, and as AT&T notes, “Changing the data recording, retention and reporting requirements now would require new systems work, adding to the already substantial costs incurred by providers to comply with these rules. At the same time, claims that the policy benefits would outweigh these substantial

¹⁰ NCTA Comments at 1.

¹¹ Sprint Comments at 1.

¹² USTelecom Comments at 6.

¹³ USTelecom Comments at 3.

¹⁴ *Id.*

¹⁵ NCTA Comments at 5.

costs are dubious at best.”¹⁶ Modifying, instead of eliminating the data rules, “would impose substantial costs on covered providers without providing countervailing benefits,” as CTIA commented.¹⁷

A few commenters, like NTCA and WTA, proposed modified data rules.¹⁸ But the Bureau already has rejected this approach, concluding “it is not clear the benefits of such modifications would outweigh the costs.”¹⁹ And as Comcast notes, “based on the Bureau’s analysis, it appears unlikely that the Commission could modify the reporting framework in a way that would lead to the collection of data that reliably and accurately reflect rural call completion performance nationwide.”²⁰ The Commission should reject NTCA and WTA’s proposals.

B. Adopt the Proposal for Covered Providers To Monitor Intermediate Providers and Hold Them Accountable—and Adopt No Other Requirements.

Many commenters support the proposed new Rule 64.2103²¹ under which covered providers would monitor intermediate providers’ performance and hold the intermediate provider accountable. Comcast, for example, asked the Commission to “replace the existing rules with its simpler proposal.”²² And CenturyLink commented, “The Commission should adopt its proposed rule in its current form without further specific requirements.”²³ Others, like AT&T, support covered providers’ efforts to monitor rural call completion performance of intermediate carriers

¹⁶ AT&T Comments at 3.

¹⁷ CTIA Comments at 6.

¹⁸ *See, e.g.*, NTCA Comments on WCB Report on Rural Call Completion, WC Docket No. 13-39, at 9 (Aug. 8, 2017).

¹⁹ *2017 RCC Data Report*, ¶ 39.

²⁰ Comcast Comments at 2.

²¹ *FNPRM* at Appendix A.

²² Comcast Comments at 2.

²³ CenturyLink Comments at 4.

and hold them accountable but argue that no new Commission rules are necessary to accomplish this.²⁴ CTIA, too, suggests no new rules are needed and that the Commission can continue to rely on Sections 201 and 202 of the Act to evaluate call completion practices.²⁵

While we agree the Commission’s existing authority including Sections 201 and 202—combined with its longstanding policy that covered providers are responsible for the provision of service to their customers even when they contract with intermediate providers to carry calls to their destinations²⁶—gives the Commission ample tools to ensure adequate performance, the Commission’s proposed new Rule 64.2103 builds on its earlier findings, and we continue to support it.

But it is critical that providers have flexibility to implement this new rule. As Comcast comments, “the Commission should afford covered providers flexibility to develop reasonable internal procedures to satisfy this mandate.”²⁷ CTIA urges any new rules allow flexibility consistent with the “unique network management practices” of each covered provider.²⁸ The Commission itself has recognized the importance of this flexibility,²⁹ which AT&T correctly describes as “imperative.”³⁰

²⁴ AT&T Comments at 7.

²⁵ CTIA Comments at 2.

²⁶ *Developing a Unified Intercarrier Compensation Regime*, Declaratory Ruling, 27 FCC Rcd 1351, ¶ 12 (2012).

²⁷ Comcast Comments at 2.

²⁸ CTIA Comments at 2.

²⁹ *FNPRM* ¶ 16.

³⁰ AT&T Comments at 8.

For example, to maintain that flexibility, the Commission should not mandate adherence to industry best practices or other technical requirements, as some have proposed.³¹ Industry efforts can play an important role in addressing rural call delivery issues, but they should continue to be collaborative, voluntary endeavors. ATIS, which developed an *Intercarrier Call Completion/Call Termination Handbook* that includes recommended industry best practices, agrees. ATIS “urges the Commission not to transform [the handbook] into regulatory mandates.”³² First, as ATIS notes, converting collaborative industry efforts into regulatory mandates could have a chilling effect on future voluntary efforts to address other industry issues.³³ And second, in the context of rural call completion, a “one-size-fits-all implementation” would detract from carriers’ “flexibility to manage their networks and their relationships with intermediate providers,” which as CTIA comments could stifle innovation and implementation of new and improved network management processes³⁴ Providers, as AT&T states, “need flexibility to adopt some or all of the ATIS Best Practices as appropriate for their businesses and individual network functions.”³⁵

Similarly, the Commission should not attempt to design and adopt new performance metrics for rural call completion. Although the California Public Utilities Commission asks the Commission to impose new metrics,³⁶ there is almost no other support for external performance

³¹ See NTCA/WTB Comments at 10-11.

³² ATIS Comments at 3.

³³ *Id.* See also CenturyLink Comments at 5 (“Tying requirements with industry best practices could create a disincentive for industry participants to create new or improved best practices due to the potential that such practices will be converted into a regulatory requirement.”)

³⁴ CTIA Comments at 8-9.

³⁵ AT&T Comments at 7.

³⁶ California Public Utilities Commission Comments at 3-4.

metrics in the comments, and the widespread opposition demonstrates that metrics would be costly to implement, would not effectively drive improved performance, and could result in impeded call completion performance. And the argument in favor of metrics, as Sprint comments, is “misplaced.”³⁷ Among other things, new metrics would not address root causes of call completion troubles and would detract from carriers’ flexibility to address those issues. Particular carriers could choose to implement their own metrics applicable to their relationships with intermediate providers, but that should be up to the carriers, who as Comcast notes should have “flexibility in fashioning internal metrics to assess the performance of intermediate providers” if they so choose.³⁸ Conversely, specific performance metrics could “impede rather than advance the goal of successfully addressing this issue,” as CenturyLink commented.³⁹ They also could be inconsistent with existing contractual relationships.⁴⁰

The Commission also should resist other calls to micromanage providers’ networks and how they implement the Commission’s proposed new monitoring regime. For example the Commission should not, as some have proposed, mandate test lines.⁴¹ In our experience, there is no correlation between test-line results and rural call completion performance. Even NTCA and WTA, the most active proponents of prescriptive regulation in this proceeding, offer only tepid non-opposition to test lines, and they note problems including false positives that can result from test lines.⁴² ATIS, whose Handbook “recognizes the value of test lines,” does not call for

³⁷ Sprint Comments at 2.

³⁸ Comcast Comments at 7.

³⁹ CenturyLink Comments at 4-5.

⁴⁰ See NCTA Comments at 5.

⁴¹ See, e.g., Comcast Comments at 2-3.

⁴² See NTCA/WTA Comments at 16.

mandatory test lines (and opposes mandatory guidelines in general).⁴³ Likewise USTelecom, while noting that test lines may be valuable, notes “it is unnecessary for the Commission to require any sort of compliance so that carriers of all sizes have the flexibility they need to manage their networks.”⁴⁴ Nor should the Commission mandate burdensome practices like HD Tandem’s proposal that would mandate when and how carriers must purchase trunking capacity, which contravene the Commission’s goal of ensuring covered providers have the flexibility they need.⁴⁵

Instead the Commission should in conjunction with its proposed new monitoring rule expect covered providers to make a good-faith effort to comply, and it should make clear that it will not impose liability on those who do.⁴⁶ One provider’s good-faith efforts may be different from another’s. So consistent with its flexibility goals, the Commission should not define what constitutes a good-faith effort. The Commission can, as CTIA comments, “continue to utilize Sections 201 and 202 of the Communications Act to evaluate carriers’ call completion practices,” instead of adopting “overly broad industry-wide rule[s].”⁴⁷

C. Complete Intercarrier Compensation Reform in Other Proceedings.

The Commission is actively considering how it should complete the intercarrier compensation reform it began in 2011. The Commission recently received comments on reforming originating switched access charges—including how to address arbitrage schemes associated with 8YY traffic—and it has a pending public notice soliciting comment on

⁴³ ATIS Comments at 4.

⁴⁴ USTelecom Comments at 5.

⁴⁵ *FNPRM* ¶ 16.

⁴⁶ *See, e.g.*, AT&T Comments at 9; Comcast Comments at 8; USTelecom Comments at 5.

⁴⁷ CTIA Comments at 2.

transitioning tandem and transit charges to bill-and-keep. In this proceeding, AT&T and Sprint both point to incomplete reform of the intercarrier compensation system as a primary cause of rural call completion issues.⁴⁸ But regardless of the relationship between intercarrier compensation and rural call completion, we have long supported efforts to complete intercarrier compensation reform and encourage the Commission to do so as quickly as practical in the appropriate proceedings.

D. Conclusion.

The Commission should eliminate the current data recording, retention, and reporting rules. It should adopt its proposed new monitoring rule. And it should give providers the flexibility they need to implement and comply with it by not adopting other new or modified requirements.

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⁴⁸ AT&T Comments at 6; Sprint Comments at 1-3.